



December 7, 2018

TO: Members, Subcommittee on Communications and Technology

FROM: Committee Majority Staff

RE: Hearing entitled “RAY BAUM’S Act: A Bipartisan Foundation for Bridging the Digital Divide.”

I. INTRODUCTION

The Subcommittee on Communications and Technology will hold a hearing on Thursday, December 11, 2018, at 2:00 p.m. in 2322 Rayburn House Office Building. The hearing is entitled “RAY BAUM’S Act: A Bipartisan Foundation for Bridging the Digital Divide.”

II. WITNESSES

- Curtis LeGeyt, Executive Vice President, Government Relations, National Association of Broadcasters;
- Tim Donovan, Senior Vice President, Legislative Affairs, Competitive Carriers Association;
- Bohdan Zachary, General Manager, Milwaukee Public Broadcast Station; and,
- Jeff Cohen, Chief Counsel, APCO International

III. BACKGROUND

The Subcommittee on Communications and Technology plays a key role in broadband, spectrum, and broadcast media policy—among other issues. During the 115th Congress, the Subcommittee has focused on advancing legislation to remove barriers to broadband deployment, increase the amount of spectrum for wireless broadband, and promote strong public safety communications. Many of the Subcommittee’s accomplishments were enacted through the Repack Airwaves Yielding Better Access for Users of Modern Services (RAY BAUM’S) Act which was enacted on March 23, 2018 as Division P of the Consolidated Appropriations Act of 2018. Provisions from the following bills were included in the final Act:

- H.R. 423, Anti-Spoofing Act of 2017
- H.R. 588, Securing Access to Networks in Disasters Act
- H.R. 599, Federal Communications Commission Consolidated Reporting Act of 2017
- H.R. 1340, Interagency Cybersecurity Act
- H.R. 1546, Rural Wireless Act of 2017
- H.R. 1581, Tribal Digital Access Act of 2017

- H.R. 1814, Rural Spectrum Accessibility Act of 2017
- H.R. 2546, FCC CIO Parity Act
- H.R. 2636, To establish an independent inspector general for the Federal Communications Commission
- H.R. 3995, Improving Broadband Access for Veterans Act of 2017
- H.R. 4109, Spectrum Auction Deposits Act of 2017
- H.R. 4795, Communications Facilities Deployment on Federal Property Act of 2018
- H.R. 4798, Inventory of Assets for Communications Facilities Act of 2018
- H.R. 4800, Broadband Conduit Deployment Act of 2018
- H.R. 4839, Broadband Infrastructure Inventory Act of 2018
- H.R. 4847, Broadband Deployment Streamlining Act
- H.R. 4986, RAY BAUM'S Act of 2018
- H.R. 5236 (114th Congress), RESPONSE Act of 2016

This hearing will examine the bipartisan accomplishments of the Subcommittee enacted in RAY BAUM'S Act as well as the progress that has been made so far to further close the digital divide, promote public safety, and ensure successful future spectrum auctions.

IV. REAUTHORIZATION OF THE FCC

The Federal Communications Commission (FCC) is an independent agency established pursuant to the Communications Act of 1934 to regulate interstate and international communications by radio, television, wire, satellite, and cable.¹ Title I of RAY BAUM'S Act reauthorized the FCC for the first time since 1990, appropriating \$333,118,000 for fiscal year 2019 and \$339,610,000 for fiscal year 2020 to carry out the functions of the agency.² Section 101 requires the FCC to issue a final rule amending the schedule of regulatory fees. On August 28, 2018, the Commission adopted an Order that amended its rules regarding the collection of delinquent debts, prohibiting the FCC from assessing its administrative costs of collecting delinquent regulatory and application fee debt.³

Included in the reauthorization of the agency are several reforms. Title IV includes provisions from H.R. 599, the FCC Consolidated Reporting Act, which was introduced by Rep. Steve Scalise (LA-01).⁴ These provisions consolidate redundant FCC reports and provide conforming amendments to streamline FCC reporting requirements. On December 12, 2018, the Commission will consider the first Communications Marketplace Report.⁵ The report

¹ 47 U.S.C. 151, et seq.

² Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Title V of Division E, p. 215.

³ "In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2018," Report and Order and Order, Federal Communications Commission. (MD Docket No. 18-175) Adopted August 28, 2018. Available at: <https://docs.fcc.gov/public/attachments/FCC-18-126A1.pdf>

⁴ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Title IV of Division P, p. 740-743.

⁵ "In the Matter of Communications Marketplace Report," Report, Federal Communications Commission. (GN Docket No. 18-231) Available at: <https://docs.fcc.gov/public/attachments/DOC-355217A1.pdf>

consolidates several previously separate reports into a single report addressing the state of the broader communications market in the United States.

Section 501 included provisions from H.R. 2636, introduced by Rep. Bill Johnson (OH-06), which created an independent inspector general at the Commission.⁶ The inspector general will be made permanent and appointed by the President instead of the Chairman of the Commission. Section 502 included provisions from H.R. 2546, Rep. Mimi Walters's (CA-45) FCC CIO Parity Act, which gives the Commission's Chief Information Officer added authority over the budget and planning of their responsibilities.⁷

V. REPACKING OF BROADCAST STATIONS

The Middle-Class Tax Relief and Job Creation Act of 2012 authorized the broadcast incentive auction, whereby television broadcasters could voluntarily relinquish their spectrum licenses and, in exchange, share in auction proceeds paid by wireless providers' winning bids.⁸ This incentive auction included 1) a "reverse auction" in which television stations could place bids on how much compensation they would require to return all their spectrum or move from an ultra-high frequency (UHF) channel to a very-high frequency (VHF) channel; 2) a "repacking" process where television stations that did not voluntarily participate in the incentive auction were assigned to new channels; and, 3) a "forward auction" in which the Commission would repurpose and auction the voluntarily returned and cleared spectrum to eligible bidders.

In the Consolidated Appropriations Act of 2018, Congress authorized a repack fund to address the apparent shortfall in funding available to relocate broadcasters being displaced in the aftermath of the spectrum auction.⁹ Additionally, it set up new relocation funds for translators,¹⁰ low-power television (LPTV),¹¹ and FM radio stations¹² that will be impacted—supplemented by a consumer education fund.¹³ Congress included \$1 billion over two years for the TV Broadcaster Relocation Fund in title V of Division E.¹⁴ This funding addressed the shortfall of funds to relocate displaced broadcasters following the successful broadcast incentive auction. Ensuring all affected broadcasters can relocate is important to making auctioned spectrum available for wireless broadband in both rural and urban areas and reaffirms the Commission's ability to manage complex spectrum auctions that may be authorized in the future.

⁶ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 501, p. 743-744.

⁷ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 502, p. 744.

⁸ Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) <https://www.congress.gov/112/plaws/publ96/PLAW-112publ96.pdf>, Title VI, Subtitle D.

⁹ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division E, Section 511, p. 216.

¹⁰ *Supra*, Note 10 at p. 216-217.

¹¹ *Supra*, Note 10 at p. 216-217.

¹² *Supra*, Note 10 at p. 217.

¹³ *Supra*, Note 10 at p. 216.

¹⁴ *Supra*, Note 10 at p. 216.

On August 2, 2018, the Commission adopted a Notice of Proposed Rulemaking (NPRM) and Order that started the process to reimburse certain LPTV, TV translator, and FM broadcast stations for costs incurred as a result of the broadcast TV spectrum incentive auction.¹⁵

VI. ADVANCING BROADBAND INFRASTRUCTURE DEPLOYMENT

In addition to reauthorizing the agency with reforms and setting the terms to ensure a timely repacking process, several provisions enacted in RAY BAUM'S Act are designed to promote broadband infrastructure deployment.

In Title V, Section 504 includes provisions from H.R. 3995, the Improving Broadband Access for Veterans Act of 2017, which was introduced by Rep. Jerry McNerney (CA) and Rep. Adam Kinzinger (IL).¹⁶ This section requires the FCC to submit a report to Congress on its efforts to promote Internet access for veterans—especially low-income veterans or those who reside in rural areas. On September 12, 2018, the Commission's Wireline Competition Bureau released a Public Notice seeking public comment, information, and data on promotion of broadband Internet access for veterans.¹⁷

Provisions from Rep. Dave Loebsack (IA) and Rep. Ryan Costello's (PA) H.R. 1546, the Rural Wireless Act of 2017, were included as Section 505.¹⁸ This section seeks to improve the accuracy of coverage data collected for determining mobile coverage by directing the Commission to establish a methodology used in future data collections. Additionally, Section 508 included provisions from Rep. Raul Ruiz's (CA) Tribal Digital Access Act of 2017 (H.R. 1581).¹⁹ This section requires the Commission to submit a report to Congress evaluating broadband coverage in tribal areas and carry out a rulemaking to address unserved tribal areas.

In Title VI, Section 606 includes provisions from H.R. 4795, the Communications Facilities Deployment on Federal Property Act, which was introduced by Rep. Mimi Walters (CA).²⁰ This section seeks to update and streamline commercial broadband deployment on federal property. Furthermore, Section 606 includes provisions from H.R. 4847, the Broadband Deployment Streamlining Act, which was introduced by Rep. Susan Brooks (IN) and Rep. Doris Matsui (CA).²¹ These provisions institute a 270-day shot-clock for Federal agencies to either

¹⁵ "In the Matter of LPTV, TV Translator, and FM Broadcast Station Reimbursement," Notice of Proposed Rulemaking and Order, *Federal Communications Commission*. (MB Docket No. 18-214) Available at: <https://docs.fcc.gov/public/attachments/FCC-18-113A1.docx>

¹⁶ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 504, p. 747.

¹⁷ Public Notice, Wireline Competition Bureau (WC Docket No. 18-275), Released September 12, 2018. Available at: <https://docs.fcc.gov/public/attachments/DA-18-947A1.doc>

¹⁸ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 505, p. 747-748.

¹⁹ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 508, p. 748-749.

²⁰ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 606, p. 754-757.

²¹ *Supra*, Note 21.

grant or deny applications for commercial broadband facilities on Federal property. Section 607 includes provisions from H.R. 4800, the Broadband Conduit Deployment Act, introduced by Rep. Anna Eshoo (CA) and Rep. David McKinley (WV).²² These provisions direct the Secretary of Transportation to promulgate regulations to facilitate the use of rights-of-way on Federal-aid highways to accommodate broadband infrastructure. Finally, Section 608 includes provisions from H.R. 4798, the Inventory of Assets for Communications Facilities Act, and H.R. 4839, the Broadband Infrastructure Inventory Act.²³ These provisions update an existing database of Federal real property assets to include information that could support deployment of communications facilities.

VII. UNLOCKING COMMERCIAL SPECTRUM

Access to wireless spectrum is essential to close the digital divide. Demand continues to rise for access to both licensed and unlicensed spectrum to deliver broadband, and Congress continues to search for and identify ways to make more spectrum available for commercial broadband service. Several provisions in RAY BAUM'S Act facilitate bringing spectrum to market so it can be deployed by those who will use it efficiently.

Section 101 includes provisions from H.R. 4109, the Spectrum Auction Deposits Act, which was introduced by Rep. Brett Guthrie (KY) and Rep. Doris Matsui (CA).²⁴ Provisions from this bill allow the FCC to deposit upfront payments from bidders in Federal spectrum auctions directly with the United States Treasury. This section was crucial to permitting the FCC to conduct further spectrum auctions necessary for wireless broadband in both rural and urban areas, including the current auction ongoing for spectrum in the 28 GHz band²⁵ and the upcoming auctions in the 24, 37, 39, and 47 GHz bands.²⁶

Section 616 includes provisions from H.R. 1814, the Rural Spectrum Accessibility Act, which was introduced by Rep. Dave Loebsack (IA) and Rep. Adam Kinzinger (IL).²⁷ These provisions directed the Commission to initiate a rulemaking to assess the potential for spectrum license holders to break-up their licenses in geographic areas for sale or lease so the spectrum may be used more efficiently by smaller, rural wireless providers.

²² Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 607, p. 757-758.

²³ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 608, p. 758-760.

²⁴ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 101, p. 734-735.

²⁵ "FCC's First-Ever High-Band 5G Spectrum Auction Begins Today," Press Release, Federal Communications Commission. *See*, <https://docs.fcc.gov/public/attachments/DOC-355073A1.pdf>

²⁶ *See*, <https://www.fcc.gov/auction/102/factsheet#keydates>, and, <https://docs.fcc.gov/public/attachments/DOC-353229A1.pdf>

²⁷ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 616, p. 763-764.

Finally, provisions from H.R. 3685, the Radio Consumer Protection Act, were included in title V of Division E.²⁸ Originally introduced by Rep. Bill Flores (TX) and Rep. Gene Green (TX), the provisions in Division E included payments to FM Broadcast stations through the TV Broadcasters Relocation Fund. Ensuring a smooth transition to relocate affected broadcasters is critical to making broadcast spectrum won at auction by wireless carriers available for wireless broadband in both urban and rural areas.

VIII. PUBLIC SAFETY COMMUNICATIONS

Several provisions in RAY BAUM'S Act also facilitate improvements in public safety communications. Section ~~503~~, ~~which~~ includes provisions from H.R. 423, the Anti-Spoofing Act of 2017, introduced by Rep. Grace Meng (NY-06), ~~which~~ will help law enforcement stop spoofing calls and texts originating outside the U.S.²⁹ This provision also puts an 18-month shot-clock on the Commission to conduct a rulemaking, requires the FCC to work with the Federal Trade Commission (FTC) to educate consumers on identifying spoofed calls, and directs GAO to conduct a study on fraudulent, misleading, or inaccurate caller ID information.

Section 506 includes provisions from H.R. 5236 (114th Congress), which was introduced by Rep. Anna Eshoo (CA).³⁰ These provisions build on Kari's Law³¹ by requiring the FCC to conclude a proceeding within 18 months on call location information conveyed with a 9-1-1 call, regardless of the platform used, including multi-line telephone systems (MLTS). On September 26, 2018, the Commission adopted an NPRM seeking comment on the feasibility of requiring dispatchable location for 9-1-1 calls from MLTS systems and other technological platforms.³²

Additionally, Title III of RAY BAUM'S Act includes provisions from H.R. 588, the Securing Access to Networks in Disasters, which was introduced by Rep. Frank Pallone (NJ).³³ This Title requires the Commission to report on the public safety benefits, technical feasibility, and cost of making Wi-Fi access points and other unlicensed spectrum technologies available to the public in times of emergency.

Finally, Section 507 includes provisions from H.R. 1340, introduced by Rep. Eliot Engel (NY).³⁴ This section requires the National Telecommunications and Information Administration

²⁸ *Supra*, Note 10 at p. 217-219.

²⁹ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 503, p. 744-747.

³⁰ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 506, p. 748.

³¹ P.L. 115-27, Available at: <https://www.gpo.gov/fdsys/pkg/BILLS-115hr582enr/pdf/BILLS-115hr582enr.pdf>

³² "In the Matter of Implementing Kari's Law and Section 506 of RAY BAUM'S Act" Notice of Proposed Rulemaking, *Federal Communications Commission*. (PS Docket No. 18-261) September 26, 2018. <https://docs.fcc.gov/public/attachments/FCC-18-132A1.docx>

³³ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Title III of Division P, p. 739-740.

³⁴ Consolidated Appropriations Act, 2018, (P.L. 115-141) <https://www.gpo.gov/fdsys/pkg/BILLS-115hr1625enr/pdf/BILLS-115hr1625enr.pdf>, Division P, Section 507, p. 748.

(NTIA) to study how the agency can best coordinate the interagency process following cybersecurity incidents.

IX. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Robin Colwell, Tim Kurth, Lauren McCarty, Sean Farrell, or Evan Viau at the Majority Committee staff at (202) 225-2927.